

PHILIPPINE BUSINESS BANK, PETITIONER, VS. FELIPE CHUA, RESPONDENT.

G.R. No. 178899. November 15, 2010

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for review on certiorari^[1] filed by Philippine Business Bank (PBB) challenging the decision of the Court of Appeals (CA) in CA-G.R. SP No. 94883 dated February 8, 2007,^[2] insofar as it overturned the Regional Trial Court's (RTC's) order dated December 16, 2005 declaring the finality of its Partial Summary Judgment and granting the issuance of a writ of execution against respondent Felipe Chua (respondent Chua). PBB also seeks to overturn the resolution of the CA dated July 18, 2007, which denied its motion for reconsideration.

FACTUAL ANTECEDENTS

From the records, the following facts are not in dispute.

On March 22, 2002, Tomas Tan (Tan), a stockholder and director/Treasurer of CST Enterprises, Inc. (CST), filed a derivative suit for the Declaration of Unenforceability of Promissory Notes and Mortgage, Nullity of Secretary's Certificate, Injunction, Damages with Prayer for the Issuance of Temporary Restraining Order/Writ of Preliminary Injunction against PBB, Francis Lee, Alfredo Yao, Rodulfo Besinga, Stephen Taala, Rose Robles, Henry Ramos, Yu Heng, Mabuhay Sugar Central, Inc., Nancy Chan, Henry Chan, John Dennis Chua, Jaime Soriano, Voltaire Uychutin, Peter Salud, Edgar Lo, respondent Felipe Chua, and John Does before the Makati City Regional Trial Court.^[3]

In Tan's amended complaint dated January 9, 2003, he alleged that sometime in February 2001, before he went abroad for medical treatment, he turned over to respondent Chua, a director and the President of CST, the original copies of Transfer Certificate of Title Nos. 124275 and 157581, titles to lands owned by, and registered in the name of, CST. In January 2002, the respondent informed him that CST's properties had been fraudulently used as collateral for loans allegedly taken out in CST's name, but without proper authority from CST stockholders and/or the Board of Directors.^[4]

From his investigation, Tan discovered that a certain Atty. Jaime Soriano had issued a Secretary's certificate, which stated that John Dennis Chua was authorized during a duly constituted CST board meeting to open a bank account and obtain credit facilities under the name of CST with PBB. This Secretary's Certificate also authorized John Dennis Chua to use CST's properties as security for these loans.^[5] Using this Secretary's Certificate, John Dennis Chua took out loans with PBB in the total amount of Ninety-One Million One Hundred Thousand Pesos (P91,100,000.00),^[6] and used CST properties as collateral.^[7] Respondent Chua signed as co-maker with John Dennis Chua, who signed both as the representative of CST, as well as in his personal capacity, on six promissory notes to PBB to evidence parts of this loan.^[8]

When PBB threatened to foreclose the mortgage on these properties after CST defaulted,[9] Tan filed the present complaint, essentially arguing that the loans/promissory notes and mortgage made out in CST's name are unenforceable against it, since they were entered into by persons who were unauthorized to bind the company.[10]

In its Amended Answer,[11] PBB claimed that the loans to CST, as well as the corresponding mortgage over CST properties, were all valid and binding since the loan applications and documents accomplished by John Dennis Chua were supported by the duly accomplished secretary's certificate, which authorized him to obtain credit facilities in behalf of CST. In addition, the original copies of the titles to the properties were offered to PBB as collaterals.

PBB's Amended Answer also included a cross-claim against respondent Chua, demanding payment of the promissory notes he signed as co-maker with John Dennis Chua.[12]

In respondent Chua's Answer to the Cross-Claim of PBB,[13] he claimed that he never applied for a loan with the PBB. He further denied authorizing John Dennis Chua to apply for any loans in CST's name, or to use CST properties as security for any loans.[14] Nevertheless, he admitted that he signed, as co-maker, six promissory notes covering the loans obtained by John Dennis Chua with PBB. According to respondent Chua, he executed these promissory notes after the loans had already been consummated, "in a sincere effort to persuade John Dennis Chua to pay off the unauthorized loan and retrieve from cross-claimant PBB the CST titles." [15]

PBB subsequently filed a Motion for Partial Summary Judgment based on Section 1, Rule 35 of the 1997 Rules of Civil Procedure (Rules), claiming that since respondent Chua already admitted the execution of the promissory notes in favor of PBB amounting to Seventy Five Million Pesos (P75,000,000.00),[16] insofar as its cross-claim against him was concerned, there was no genuine issue on any material fact on the issue of his liability to PBB. PBB argued that although respondent Chua claimed that he signed the promissory notes merely to persuade John Dennis Chua to pay off his loan to PBB, he was still liable as an accommodation party under Section 29 of the Negotiable Instruments Law.[17]

THE RTC'S PARTIAL SUMMARY JUDGMENT

Acting on PBB's motion, the RTC issued a partial summary judgment on PBB's cross-claim on July 27, 2005, finding respondent Chua liable as a signatory to the promissory notes amounting to Seventy-Five Million Pesos (P75,000,000.00). The RTC reasoned that by signing as a co-maker, he obligated himself to pay the amount indicated in the promissory notes, even if he received no consideration in return. Thus, the RTC ordered him to pay PBB the amount of P75,000,000.00, plus interests and costs.[18]

In its order dated December 16, 2005, the RTC resolved respondent Chua's Notice of Appeal, as well as PBB's Motion to Disallow Appeal and to Issue Execution. Citing Section 1, Rule 41 of the Rules, the RTC ruled that respondent Chua could not file a notice of appeal. Instead, he should have filed a special civil action for certiorari under Rule 65 of the Rules. However, since the period for filing a certiorari petition had already lapsed without respondent filing any petition, the partial summary judgment had become final and executory. Thus, it ordered the issuance of a writ of execution for the satisfaction of the partial summary judgment in favor of PBB.[19]

On December 21, 2005, the RTC issued an order appointing Renato Flora as the special sheriff to implement the writ of execution. In line with this order, Renato Flora, on December 23, 2005, issued a Notice of Levy and Sale on Execution of Personal Properties, addressed to respondent Chua. He proceeded with the execution sale, and on December 28, 2005, he issued a certificate of sale over respondent Chua's 900 shares of stock in CST in favor of PBB. He also posted a notice of sheriff's sale on January 10, 2006 over respondent Chua's five parcels of land located in Las Pinas, Pasay City, and Muntinlupa.[20]

THE COURT OF APPEALS DECISION

Respondent Chua filed a petition for certiorari and mandamus with the CA to challenge: (a) the December 16, 2005 order, granting PBB's motion to disallow his appeal; (b) the December 21, 2005 order, granting PBB's motion to appoint Renato Flora as special sheriff to implement the writ of execution; and (c) the February 16, 2006 order denying his motion for reconsideration and to suspend execution. In essence, respondent Chua alleged that the RTC acted with grave abuse of discretion in disallowing his appeal of the partial summary judgment, and in issuing a writ of execution. Significantly, respondent Chua did not question the propriety of the partial summary judgment.

On February 8, 2007, the CA issued the assailed decision, partly affirming the RTC order dated December 16, 2005 on the matter of the disallowance of respondent Chua's appeal. The CA held that respondent Chua could not appeal the partial summary judgment while the main case remained pending, in keeping with Section 1(g), Rule 41 of the Rules.

However, the CA held that the RTC committed grave abuse of discretion when it issued the writ of execution against respondent Chua. As found by the CA, the RTC grievously erred when it held that the partial judgment had become final and executory when respondent Chua failed to avail of the proper remedy of certiorari within the 60 day reglementary period under Rule 65. Since a partial summary judgment does not finally dispose of the action, it is merely an interlocutory, not a final, order. Thus, it could not attain finality.

The CA further noted that certiorari is an independent action and not part of the appeal proceedings, and failure to file a certiorari petition would not result in the finality of the judgment or final order. The RTC, thus, committed grave abuse of discretion amounting to lack of jurisdiction when it granted the issuance of a writ of execution, and the corresponding writ of execution issued by the court a quo, as well as the subsequent implementing proceedings, were void.

THE PETITION

PBB submits two issues for our resolution:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR IN APPLYING JURISPRUDENCE NOT ON ALL FOURS [WITH] THE FACTUAL BACKDROP OF THE CASE.

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR IN RECALLING AND SETTING ASIDE THE WRIT OF EXECUTION AND ALL THE PROCEEDINGS TAKEN FOR ITS IMPLEMENTATION ON THE WRONG NOTION THAT THE PARTIAL SUMMARY JUDGMENT HAS NOT BECOME FINAL AND EXECUTORY.

THE RULING

We DENY the petition for being unmeritorious.

Nature of Partial Summary Judgment

PBB's motion for partial summary judgment against respondent Chua was based on Section 1, Rule 35 of the Rules, which provides:

Section 1. Summary Judgment for claimant. - A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.

A summary judgment, or accelerated judgment, is a procedural technique to promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits on record, or for weeding out sham claims or defenses at an early stage of the litigation to avoid the expense and loss of time involved in a trial.[21] When the pleadings on file show that there are no genuine issues of fact to be tried, the Rules allow a party to obtain immediate relief by way of summary judgment, that is, when the facts are not in dispute, the court is allowed to decide the case summarily by applying the law to the material facts.[22]

The rendition by the court of a summary judgment does not always result in the full adjudication of all the issues raised in a case. For these instances, Section 4, Rule 35 of the Rules provides:

Section 4. Case not fully adjudicated on motion. - If on motion under this Rule, judgment is not rendered upon the whole case or for all the reliefs sought and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel shall ascertain what material facts exist without substantial controversy and what are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. The facts so specified shall be deemed established, and the trial shall be conducted on the controverted facts accordingly.

This is what is referred to as a partial summary judgment. A careful reading of this section reveals that a partial summary judgment was never intended to be considered a "final judgment," as it does not "[put] an end to an action at law by declaring that the plaintiff either has or has not entitled himself to recover the remedy he sues for." [23] The Rules provide for a partial summary judgment as a means to simplify the trial process by allowing the court to focus the trial only on the assailed facts, considering as established those facts which are not in dispute.

After this sifting process, the court is instructed to issue an order, the partial summary judgment, which specifies the disputed facts that have to be settled in the course of trial. In this way, the partial summary judgment is more akin to a record of pre-trial,[24] an interlocutory order, rather than a final judgment.

The differences between a "final judgment" and an "interlocutory order" are well-established. We said in *Denso (Phils.) Inc. v. Intermediate Appellate Court*[25] that:

[A] final judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, e.g., an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of *res judicata* or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties' next move . . . and ultimately, of course, to cause the execution of the judgment once it becomes "final" or, to use the established and more distinctive term, "final and executory."

x x x x

Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory", e.g., an order denying a motion to

dismiss under Rule 16 of the Rules x x x Unlike a 'final judgment or order, which is appealable, as above pointed out, an 'interlocutory order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.[26]

Bearing in mind these differences, there can be no doubt that the partial summary judgment envisioned by the Rules is an interlocutory order that was never meant to be treated separately from the main case. As we explained in *Guevarra v. Court of Appeals*:[27]

It will be noted that the judgment in question is a "partial summary judgment." It was rendered only with respect to the private respondents' first and second causes of action alleged in their complaint. It was not intended to cover the other prayers in the said complaint, nor the supplementary counterclaim filed by the petitioners against the private respondents, nor the third-party complaint filed by the petitioners against the Security Bank and Trust Company. A partial summary judgment "is not a final or appealable judgment." (Moran, Vol. 2, 1970 Edition, p. 189, citing several cases.) "It is merely a pre-trial adjudication that said issues in the case shall be deemed established for the trial of the case." (Francisco, Rules of Court, Vol. II, p. 429.)

x x x x

The partial summary judgment rendered by the trial court being merely interlocutory and not 'a final judgment', it is puerile to discuss whether the same became final and executory due to the alleged failure to appeal said judgment within the supposed period of appeal. What the rules contemplate is that the appeal from the partial summary judgment shall be taken together with the judgment that may be rendered in the entire case after a trial is conducted on the material facts on which a substantial controversy exists. This is on the assumption that the partial summary judgment was validly rendered, which, as shown above, is not true in the case at bar.[28]

We reiterated this ruling in the cases of *Province of Pangasinan v. Court of Appeals*[29] and *Government Service Insurance System v. Philippine Village Hotel, Inc.*[30]

Applicability of *Guevarra*

PBB asserts that our pronouncement in the cases of *Guevarra*, *Province of Pangasinan*, and *Government Service Insurance System* cannot be applied to the present case because these cases involve factual circumstances that are completely different from the facts before us. While the partial summary judgments in the cited cases decided only some of the causes of action presented, leaving other issues unresolved, PBB insists that as far as its cross-claim against respondent Chua is concerned, the court a quo's partial summary judgment is a full and complete adjudication because the award is for the whole claim.[31] According to PBB, whatever the court decides as regards the main case, this will not affect the liability of respondent Chua as a solidary debtor in the promissory notes, since the creditor can proceed against any of the solidary debtors. In other words, no substantial controversy exists between PBB and respondent Chua, and there is nothing more to be done on this particular issue.

We do not agree with PBB's submission.

In the *Guevarra* case, the Court held that the summary judgment rendered by the lower court was in truth a partial summary judgment because it failed to resolve the other causes of action in the complaint, as well as the counterclaim and the third party complaint raised by the defendants.

Contrary to PBB's assertions, the same could be said for the case presently before us. The partial summary judgment in question resolved only the cross-claim made by PBB against its co-defendant, respondent Chua, based on the latter's admission that he signed promissory notes as a co-maker in favor of PBB. This is obvious from the dispositive portion of the partial summary judgment, quoted below for convenient reference:

WHEREFORE, a partial summary judgment is hereby rendered on the cross-claim of cross-defendant Philippine Business Bank against cross-defendant Felipe Chua, ordering the latter to pay the former as follows:

- The amount of Ten Million (P10,000,000.00) Pesos, representing the value of the Promissory Note dated April 17, 2001, plus interest thereof at the rate of 16% from April 12, 2002, until fully paid;
- The amount of Twelve Million (P12,000,000.00) Pesos, representing the value of the Promissory Note dated April 5, 2001, plus interest thereon at the rate of 17% from April 1, 2002, until fully paid;
- The amount of Twenty Three Million (P23,000,000.00) Pesos, representing the value of the Promissory Note dated April 25, 2001, plus interest thereon at the rate of 16% from April 19, 2002, until fully paid;
- The amount of Eight Million (P8,000,000.00) Pesos, representing the value of the Promissory Note dated June 20, 2001, plus interest thereon at the rate of 17% from June 20, 2001, until fully paid;
- The amount of Seven Million (P7,000,000.00) Pesos, representing the value of the Promissory Note dated June 22, 2001, plus interest thereon at the rate of 17% from June 17, 2002, until fully paid;
- The amount of Fifteen Million (P15,000,000.00) Pesos, representing the value of the Promissory Note dated June 28, 2001, plus interest thereon at the rate of 17% from June 24, 2002, until fully paid;
- Plus cost of suit.

SO ORDERED. [32]

Clearly, this partial summary judgment did not dispose of the case as the main issues raised in plaintiff Tomas Tan's complaint, i.e., the validity of the secretary's certificate which authorized John Dennis Chua to take out loans, and execute promissory notes and mortgages for and on behalf of CST, as well as the validity of the resultant promissory notes and mortgage executed for and on behalf of CST, remained unresolved.

Chua shares common interest with co-defendant- debtors

Still, PBB insists that the partial summary judgment is a final judgment as regards PBB's cross-claim against respondent Chua since respondent Chua's liability will not be affected by the resolution of the issues of the main case.

On its face, the promissory notes were executed by John Dennis Chua in two capacities - as the alleged representative of CST, and in his personal capacity. Thus, while there can be no question as to respondent Chua's liability to PBB (since he already admitted to executing these promissory notes as a co-maker), still, the court a quo's findings on: (a) whether John Dennis Chua was properly authorized to sign these promissory notes on behalf of CST, and (b) whether John Dennis Chua actually signed these promissory notes in his personal capacity, would certainly have the effect of determining whether respondent Chua has the right to go after CST and/or John Dennis Chua for reimbursement on any payment he makes on these promissory notes, pursuant to Article 1217 of the Civil Code, which states:

Article 1217. Payment made by one of the solidary debtors extinguishes the obligation. If two or more solidary debtors offer to pay, the creditor may choose which offer to accept.

He who made the payment may claim from his co-debtors only the share which corresponds to each, with the interest for the payment already made. If the payment is made before the debt is due, no interest for the intervening period may be demanded.

When one of the solidary debtors cannot, because of his insolvency, reimburse his share to the debtor paying the obligation, such share shall be borne by all his co-debtors, in proportion to the debt of each.

In other words, PBB has a common cause of action against respondent Chua with his alleged co-debtors, John Dennis Chua and CST, it would simply not be proper to treat respondent Chua separately from his co-debtors.

Moreover, we cannot turn a blind eye to the clear intention of the trial court in rendering a partial summary judgment. Had the trial court truly intended to treat PBB's cross-claim against respondent Chua separately, it could easily have ordered a separate trial via Section 2, Rule 31 of the Rules, which states:

Section 2. Separate trials. - The court, in furtherance of convenience or to avoid prejudice, may order a separate trial of any claim, cross-claim, counterclaim, or third-party complaint, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party complaints or issues.

That the trial court did not do so belies PBB's contention.

It has also not escaped our attention that PBB, in its Motion to Disallow Appeal and to Issue Execution Against Cross-Defendant Felipe Chua,[33] already admitted that the partial summary judgment is not a judgment or final order that completely disposes of the case. In its own words:

x x x x

3. However, the remedy availed of by [respondent Chua] is patently erroneous because under Rule 41 Section 1 of the Rules of Court, an appeal may be taken only from a judgment or final order that completely disposes the case;

4. The judgment rendered by [the RTC] dated July 27, 2005 is only a partial summary judgment against [respondent Chua], on the crossclaim of cross-claimant Philippine Business Bank. The main case which involves the claim of plaintiffs against the principal defendants is still pending and has not yet been adjudged by [the RTC].[34]

Thus, PBB cannot now be allowed to deny the interlocutory nature of the partial summary judgment.

Certiorari not the proper remedy

PBB also maintains that the partial summary judgment attained finality when respondent Chua failed to file a certiorari petition, citing the last paragraph of Section 1, Rule 41 of the Rules as basis. We quote:

Section 1. Subject of appeal. - An appeal maybe taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third party complaints, while the main case is pending, unless the court allows an appeal therefrom;

x x x x

In all the above instances where the judgment, or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

Contrary to PBB's contention, however, certiorari was not the proper recourse for respondent Chua. The propriety of the summary judgment may be corrected only on appeal or other direct review, not a petition for certiorari,[35] since it imputes error on the lower court's judgment. It is well-settled that certiorari is not available to correct errors of procedure or mistakes in the judge's findings and conclusions of law and fact.[36] As we explained in

Apostol v. Court of Appeals:[37]

As a legal recourse, the special civil action of certiorari is a limited form of review. The jurisdiction of this Court is narrow in scope; it is restricted to resolving errors of jurisdiction, not errors of judgment. Indeed, as long as the courts below act within their jurisdiction, alleged errors committed in the exercise of their discretion will amount to mere errors of judgment correctable by an appeal or a petition for review.[38]

In light of these findings, we affirm the CA's ruling that the partial summary judgment is an interlocutory order which could not become a final and executory judgment, notwithstanding respondent Chua's failure to file a certiorari petition to challenge the judgment. Accordingly, the RTC grievously erred when it issued the writ of execution against respondent Chua.

In view of this conclusion, we find it unnecessary to resolve the issue raised by respondent Chua on the validity of the RTC's appointment of a special sheriff for the implementation of the execution writ.

Propriety of Summary Judgment Reserved for Appeal

As a final point, we note that respondent Chua has raised with this Court the issue of the propriety of the partial summary judgment issued by the RTC. Notably, respondent Chua never raised this issue in his petition for certiorari before the CA. It is well settled that no question will be entertained on appeal unless it has been raised in the proceedings below.[39] Basic considerations of due process impel the adoption of this rule.[40]

Furthermore, this issue would be better resolved in the proper appeal, to be taken by the parties once the court a quo has completely resolved all the issues involved in the present case in a final judgment. If we were to resolve this issue now, we would be preempting the CA, which has primary jurisdiction over this issue.

Lastly, taking jurisdiction over this issue now would only result in multiple appeals from a single case which concerns the same, or integrated, causes of action. As we said in *Santos v. People*: [41]

Another recognized reason of the law in permitting appeal only from a final order or judgment, and not from an interlocutory or incidental one, is to avoid multiplicity of appeals in a single action, which must necessarily suspend the hearing and decision on the merits of the case during the pendency of the appeal. If such appeal were allowed, the trial on the merits of the case would necessarily be delayed for a considerable length of time, and compel the adverse party to incur unnecessary expenses, for one of the parties may interpose as many appeals as incidental questions may be raised by him, and interlocutory orders rendered or issued by the lower court.

WHEREFORE, premises considered, we DENY the petition for lack of merit and AFFIRM the Decision of the Court of Appeals in CA-G.R. SP No. 94883 dated February 8, 2007, as well as its Resolution dated July 18, 2007. Costs against the petitioner, Philippine Business Bank.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Under Rule 45 of the Rules of Court, rollo, pp. 12-33.

[2] Penned by Associate Justice Conrado M. Vasquez, Jr., with the concurrence of Associate Justice Mariano C. Del Castillo (now a Member of this Court), and Associate Justice Lucenito N. Tagle, id. at 40-53.

[3] Docketed as Civil Case No. 02-299.

[4] Rollo, pp. 62-65.

[5] Id. at 65.

[6] Id. at 78.

[7] Id. at 80.

[8] Id. at 76.

[9] Id. at 95.

[10] Ibid.

[11] Id. at 105-198.

[12] Id. at 190.

[13] Id. at 209-214.

[14] Id. at 209.

[15] Id. at 210.

[16] Summary of Promissory Notes

Date of Promissory Notes

Due Date

Amount

April 17, 2001

April 12, 2002

P10,000,000.00

April 5, 2001

April 1, 2002

12,000,000.00

April 25, 2001

April 19, 2002

23,000,000.00

June 20, 2001

June 14, 2002

8,000,000.00

June 22, 2001

June 17, 2002

7,000,000.00

June 28, 2001

June 24, 2002

15,000,000.00

Id. at 224-229.

[17] Section 29. Liability of accommodation party. An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefore and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder, at the time of taking the instrument, knew him to be only an accommodation party.

[18] Rollo, pp. 254-257.

[19] Id. at 258-260.

[20] Id. at 285-286.

[21] *Monterey Foods Corporation v. Eserjose*, G.R. No. 153126, September 11, 2003, 410 SCRA 627, 632.

[22] *Bungcayao v. Fort Ilocandia Property Holdings*, G.R. No. 170483, April 19, 2010.

[23] *Black's Law Dictionary*, Fifth Edition, p. 756 (1979).

[24] Defined in Section 7, Rule 18 of the Rules, which states:

Sec. 7. Record of pre-trial. - The proceedings in the pre-trial shall be recorded. Upon the termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference, the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice.

[25] G.R. No. 75000, February 27, 1987, 148 SCRA 280.

[26] Id. at 286-287, citing *Investments, Inc. v. Court of Appeals*, 147 SCRA 334 (1987); *PLDT Employees' Union v. PLDT Co. Free Tel. Workers' Union*, 97 Phil. 424 (1955), citing *Moran*, *Comments on the Rules*, 1952 ed., Vol. I, pp. 894-895, *Nico v. Blanco*, 81 Phil. 213 (1948) and *Hodges v. Villanueva*, 90 Phil. 255 (1951); *Mejia v. Alimorong*, 4 Phil. 572 (1905); *Rios v. Ros*, 79 Phil. 243 (1947); *Kapisanan ng mga Manggagawa sa MRR Co. v. Yard Crew Union, et al.*, 109 Phil. 1143 (1960); *Antonio v. Samonte*, 1 SCRA 1072 (1961); *Acting Director, National Bureau of Investigation v. Hon. Caluag, et al.*, 2 SCRA 536 (1961); *Bairan v. Tan Siu Lay, et al.*, 18 SCRA 1235 (1966); *Dela Cruz v. Hon. Paras and San Miguel*, 69 SCRA 556 (1976); *Valdez v. Hon. Bagaso, et al.*, 82 SCRA 22 (1978).

[27] No. L-49017, August 30, 1983, 124 SCRA 297.

[28] Id. at 315-316.

[29] G.R. No. 104266, March 31, 1993, 220 SCRA 726.

[30] G.R. No. 150922, September 21, 2004, 438 SCRA 567.

[31] Rollo, p. 368.

[32] Annex "K," Petition; rollo, pp. 254-257.

[33] Id. at 429-434.

[34] Id. at 430.

[35] See *Heirs of Roxas v. Garcia*, G.R. No. 146208, August 12, 2004, 436 SCRA 253.

[36] *La Campana Development Corporation v. See*, G.R. No. 149195, June 26, 2006, 492 SCRA 584.

[37] G.R. No. 141854, October 15, 2008, 569 SCRA 80.

[38] Id. at 92.

[39] *Besana v. Mayor*, G.R. No. 153837, July 21, 2010. See *Sanchez, et al. v. Court of Appeals, et al.*, G.R. No. 108947, September 29, 1997, 279 SCRA 647; *Chua v. Timan*, G.R. No. 170452, August 13, 2008, 562 SCRA 146, citing *Lim v. Queensland Tokyo Commodities, Inc.*, 373 SCRA 31, 41 (2002).

[40] *Genesis Transport Service, Inc. v. Unyon ng Malayang Manggagawa ng Genesis Transport*, G.R. No. 182114, April 5, 2010, citing *Pag-Asa Steel Works v. Court of Appeals*, 486 SCRA 475 (2006).

[41] G.R. No. 173176, August 26, 2008, 563 SCRA 341, 359, citing *Sitchon v. Sheriff of Occidental Negros*, 80 Phil. 397, 399 (1948).

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